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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON  
PORTLAND DIVISION

TRACEY K. TURKOLY,

Case No.: 3:21-cv-1019

Plaintiff,

v.

LINCOLN NATIONAL LIFE INSURANCE  
COMPANY

Defendant.

COMPLAINT  
(Employee Retirement Income Security Act  
of 1974, 29 U.S.C.  
§ 1132(a)(1)(B))

**CAUSE OF ACTION**

1.

Plaintiff brings this action under the Employee Retirement Income Security Act of 1974, 29 U.S.C. § 1001, *et seq* ("ERISA"). Plaintiff seeks to recover from Defendant all unpaid benefits pursuant to the Long-Term Disability ("LTD") insurance policy provided

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by Lincoln National Life Insurance Company (“Lincoln”) pursuant to 29 U.S.C. §1132(a)(1)(B). Additionally, Plaintiff seeks pre-judgement and post-judgement interest and her costs and reasonable attorney fees pursuant to 29 U.S.C. §1132(g), (f).

## **JURISDICTION AND VENUE**

2.

This Court has subject-matter jurisdiction over the claims asserted in this action for monetary and equitable relief under Federal Question Jurisdiction pursuant to 28 U.S.C. § 1331 and the Employee Retirement Income Security Act of 1974 (“ERISA”), 29 U.S.C. § 1132(e)(1) and § 1132(f).

3.

Venue is appropriate in the United States District Court for the District of Oregon pursuant to 29 U.S.C. § 1132(e)(2) and 28 U.S.C. § 1391.

## **PARTIES**

4.

Plaintiff, Tracey Turkoly, is a citizen of the United States and an insured participant under the LTD insurance policy at issue in this lawsuit.

5.

Defendant, Lincoln, is the underwriter, insurer and administrator of the insurance policy at issue in this lawsuit. Further, Lincoln is, and was, doing business within the state of Oregon as an insurer.

## **CLAIMS FOR RELIEF**

6.

Ms. Turkoly is disabled under the terms of the LTD insurance policy.

## **FACTS**

7.

Ms. Turkoly is insured under a group LTD insurance policy underwritten, issued and administered by Lincoln.

8.

In February 2019, Ms. Turkoly stopped working as a Global Account Manager for DocuSign due to sickness.

9.

Ms. Turkoly's symptoms include significant pain, fatigue, and limitations in her cognitive ability and endurance.

10.

Ms. Turkoly supplied Lincoln proof of loss and requested benefits under the terms of the LTD policy.

11.

On March 25, 2020, Lincoln denied Ms. Turkoly benefits under the policy and, following an appeal, Lincoln again denied benefits on May 25, 2021.

12.

Ms. Turkoly has met and continues to meet the requirements of the insurance policy necessary to receive monthly income benefits under the LTD policy.

13.

Lincoln has failed to fully and fairly review Ms. Turkoly's claim for disability benefits.

14.

Ms. Turkoly has exhausted her pre-litigation appeals pursuant to ERISA.

15.

Ms. Turkoly's claim is subject to *de novo* review.

16.

At all relevant times, Lincoln has been operating under an inherent and structural conflict of interest because any monthly benefits paid to Ms. Turkoly are paid from Lincoln's own assets with each payment depleting those same assets.

17.

As a result of Lincoln's conduct, Ms. Turkoly has incurred attorney fees and costs, for which she is entitled to recover pursuant to 29 U.S.C. §1132(g).

**WHEREFORE**, Plaintiff prays for judgment in her favor and against Lincoln as follows:

(1) For all unpaid monthly income under the LTD policy pursuant to 29 U.S.C. §1132(a)(1)(B)

- (2) For pre-judgement and post-judgement interest on all unpaid monthly income under the LTD policy
- (3) For her attorney fees and costs pursuant to 29 U.S.C. §1132(g); and
- (4) For such other relief as this court deems just and proper.

DATED this 9<sup>th</sup> day of July, 2021.

**THOMAS, COON, NEWTON & FROST**

/s/ Scott A. Sell  
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503-228-5222  
Of Attorneys for Plaintiff